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FEDERAL BUREAU OF
INVESTIGATION
POLICY DIRECTIVE

0727D

1. Policy Directive Title.	Non-Retaliation for Reporting Compliance Risks
2. Publication Date.	2014-09-23
3. Effective Date.	2014-09-23
4. Review Date.	2017-09-23

5. Primary Strategic Objective.

T5: Enhance work environment to facilitate mission.

6. Authorities:

- 6.1. Title 5 United States Code (U.S.C.) Section (§)302(b)
- 6.2. Title 28 Code of Federal Regulations (CFR) § 0.138
- 6.3. 28 CFR § 0.159

7. Purpose:

The purpose of this policy is to provide an effective process for all Federal Bureau of Investigation (FBI) personnel to express concerns or report potential violations regarding the FBI's legal and regulatory compliance, without retaliation, and to encourage the reporting of any such concerns.

8. Policy Statement:**8.1. Policy Statement**

8.1.1. The FBI is committed to creating and sustaining a culture of compliance that promotes open communication, including open and candid discussion of concerns about compliance with applicable laws, regulations, and Department of Justice (DOJ) and FBI policies.

8.1.2. All FBI personnel are strictly prohibited from retaliating against anyone for reporting a compliance concern that the reporting individual reasonably believes to be true, when reported to any individual designated in subsection 8.4. of this directive, even if the FBI ultimately concludes that there was no compliance concern or violation.

8.2. Prohibition Against Retaliation

8.2.1. FBI personnel must immediately report any allegations of retaliation to the Inspection Division (INSD), Internal Investigations Section (IIS). Allegations of retaliation resulting from the report of a compliance concern will be processed, investigated, and adjudicated in accordance with FBI policies regarding allegations of misconduct. FBI personnel who engage in retaliation may be subject to disciplinary action.

8.3. Asking Questions About Compliance

8.3.1. FBI personnel are encouraged to ask questions about the FBI's compliance with governing laws, regulations, and policies, and are expected to do so if they are unsure about whether an action, activity, or decision is consistent with laws, regulations, or DOJ or FBI policies.

8.4. Reporting Possible Compliance Concerns

8.4.1. FBI personnel may report possible compliance concerns to:

8.4.1.1. Persons designated to receive disclosures under the FBI Whistleblower Protection Regulation

(28 CFR § 27.1).

8.4.1.2. Any member of the FBI Office of Integrity and Compliance (OIC) staff.

8.4.1.3. The FBI OIC Helpline.

8.4.1.4. Division compliance officers.

8.4.1.5. Any member of the Division Compliance Council.

8.4.1.6. Any supervisor in the chain of command of the person reporting the compliance risk.

8.5. This policy does not expand or contract whistleblower protections.

8.5.1. This policy does not add to, or subtract from, the whistleblower protections provided to FBI personnel under 5 U.S.C. § 2303, the DOJ regulations set forth in 28 CFR Part 27, Intelligence Community Directive (ICD) 120, or Policy Directive (PD) 0272D, *FBI Whistleblower Policy*. FBI personnel who, in accordance with this policy, report a concern regarding the FBI's compliance with the governing laws, regulations, and DOJ or FBI policies are protected from retaliation under this policy. Whether FBI personnel are also afforded whistleblower protection under one or more of the above-referenced authorities depends on whether the FBI personnel make a protected disclosure, as defined therein, to one or more officials enumerated by those authorities.

9. Scope:

This policy applies to all FBI personnel.

10. Proponent:

The Office of Integrity and Compliance

11. Roles and Responsibilities:

11.1. All FBI personnel must:

11.1.1. Not engage in retaliation against anyone who, reasonably believing it to be true, reports a compliance concern in accordance with this PD.

11.1.2. Immediately report any allegations of retaliation to the INSD, IIS.

11.2. FBI supervisors must:

11.2.1. Train their subordinate personnel on this policy and on the channels available to report compliance risks.

11.2.2. Create and maintain a work environment that encourages employees to ask questions about legal and regulatory compliance and to report concerns regarding compliance.

11.2.3. Carefully consider compliance concerns raised by subordinates and take one or more of the following actions in a timely manner:

11.2.3.1. Refer the matter to the DOJ Office of the Inspector General (OIG); INSD; OIC; the appropriate division compliance officer; a member of the division compliance council; or a higher level supervisor, as warranted.

11.2.3.2. Devise and implement effective mitigation measures if it is within the supervisor's authority and power to do so.

11.2.3.3. Explain to the employee who raised the concern why the concern is, in the supervisor's view, not justified but that the employee is free to elevate the concern if, in the employee's view, he or she feels that the supervisor's explanation is insufficient. For further information, see 0594DPG, FBI Integrity and Compliance Program.

11.3. INSD must evaluate all allegations of retaliation resulting from a report of a compliance concern, in accordance with standard INSD procedures, including, as appropriate, a review by the DOJ, OIG.

11.4. The Office of Professional Responsibility (OPR) must impartially adjudicate allegations of

retaliation resulting from the report of a compliance concern, in accordance with standard OPR procedures.

11.5. OIC must review reported compliance concerns when reported to OIC personnel, the OIC Helpline, or when referred to OIC by another individual designated in subsection 8.4. of this directive. OIC must work with the risk owner (where the risk originated) to determine whether a compliance concern exists and take appropriate action.

11.6. All personnel who create records as a result of this directive must adhere to current FBI recordkeeping policies and procedures, as defined in the *Records Management (RM) Manual*.

12. Exemptions:

None

13. Supersession:

PD 0032, *Non-retaliation for Reporting Compliance Risks*

14. Justification for exigent or special policy consideration:

None

15. References, Key Words, and Links:

15.1. References:

15.1.1. *FBI Office of Professional Responsibility Offense Codes and Penalty Guidelines*, subsection 5.16, "Retaliation" (1/15/2012)

15.1.2. *Intelligence Community Directive 120, Intelligence Community Whistleblower Directive* (3/20/14)

15.1.3. *PD 0272D, FBI Whistleblower Policy* (10/04/2010)

15.2. Keywords:

15.2.1. Whistleblower

15.2.2. Retaliation

15.2.3. Compliance

15.3. Links:

15.3.1. [*Records Management \(RM\) Manual*](#)

15.3.2. [*FBI Office of Professional Responsibility Offense Codes and Penalty Guidelines*](#)

15.3.3. [*FBI Integrity and Compliance Program Directive and Policy Guide*, 0594DPG](#)

16. Definitions:

16.1. FBI personnel: all FBI employees, contractors, interns, task force personnel, and detailees assigned to the FBI.

16.2. Compliance concern: a concern that the FBI has violated or is not complying with the policies, regulations, and laws that govern it.

16.3. Retaliation: engaging or threatening to engage in conduct, direct or indirect, that adversely affects an individual who reports a compliance concern in accordance with this directive, as a consequence of such reporting. Conduct adversely affects an individual if it is based on a retaliatory motive and is reasonably likely to deter a reasonable employee from reporting a compliance concern.

16.4. Reasonable belief: In order to meet the reasonable belief standard, an individual must believe

that the compliance concern is true, and the belief must also be objectively reasonable; that is, a reasonable person, when confronted with the same or similar facts or circumstances, would conclude that the matter reported is likely to be true.

17. Appendices, Attachments, and Forms:

None

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